IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 2430 of 2005

Against the judgment in C.C.No.2049/01 dated 12-3-2004 of Judicial First Class Magistrate Court I, Kochi in Crl.Appl.No.337/04 by the 4th Addl. Sessions Court, Ernakulam

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REVN. PETITIONER: APPELLANT/ACCUSED:

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1. M/S. GANGA HOME APPLIANCE, K.M.K. JUNCTION, NORTH PARAVUR, REPD.BY ITS MANAGING PARTNER MR.C.G. SUDHEER.

2. C.G. SUDHEER, MANAGING PARTNER M/S. GANGA HOME APPLIANCES, K.M.K. JUNCTION, NORTH PARAVUR.

BY ADV. SRI.SHAIJAN C.GEORGE
SRI.JOHN VIPIN
SMT.S.A.SHERLY

RESPONDENTS: COMPLAINANT:

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1. M/S. GODREJ AND BOYCE MANUFACTURING CO.LTD., REGD.OFFICE AT PRIOJSHANGAR, VUKROLI, MUMBAI AND HAVING A BRANCH OFFICE AT 38/1217, M.G. ROAD, ERNAKULAM REP. BY ITS BRANCH MANAGER G. VENUGOPAL.

2. STATE OF KERALA REP. BY PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR SRI.G.SURARSHAN
SRI.R.PADMARAJ
SRI.BIJU HARIHARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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Crl.R.P.NO.2430 OF 2005

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Dated this the 15th day of December 2006

ORDER

This revision is filed by the accused challenging the conviction and sentence passed against him under Section 138 of N.I. Act. Counsel for petitioner is absent and there is no representation for the petitioner. On going through the judgment of the courts below and the evidence in the case, I am of the view that the first respondent/complainant has discharged the burden cast on them to establish that Ext.P2 cheque was being issued to them by the petitioner in discharge of debt due to them and that the same was being dishonoured for want of sufficient funds in the account of the petitioner to honour the same. Despite notice issued intimating dishonour of cheque and demanding payment of the amount covered by the cheque, the petitioner has not paid the amount covered by the cheque either within the statutory period or thereafter. Petitioner had not been able to rebut the presumption available in favour of the first respondent and to establish that amounts covered by Ext.P2 cheque is actually not due to the first respondent. I see no

illegality, impropriety or irregularity in the findings arrived at as against the petitioner as regards offence under Section 138 of N.I. Act. The sentence awarded is also moderate and legal. This revision under this circumstances is devoid of merit and deserves to be dismissed.

In the result, confirming the conviction and sentence passed concurrently by the courts below against the petitioners, I dismiss this Crl.R.P.

K.P.BALACHANDRAN, JUDGE

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